Fin (Pension) (1934.) **Department.**

Ms. **SERIES.**

G.O. No. 230.

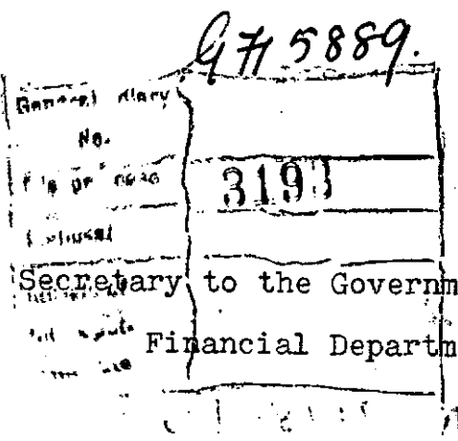
DATED 23-4-34.

[Despatch Abstract.]

PENSION -

Temporary increase - continuance - Petition from M.R.Ry. Govinda Guru Rao - Orders passed.

G# 5889.



The Secretary to the Government of Madras,
Financial Department, Fort St. George
MADRAS.

Sir,

p. 3 below

I have herewith appended a copy of the objection raised by the Accountant General in connection with the payment to me of my pension. In the order of things my pension is, unquestionably, debited to the Bombay Government which has to contribute to this Government the amount due to me as pension. Whatever may be the adjustment of accounts between the two governments, the fact all the same remains that I am a pensioner of the Bombay Government and it is that government which sanctioned my pension and on the authority of that sanction alone this government is paying me the pension and that consequently if any rules apply to the payment of my pension it is only the rules framed by the sanctioning authority i,e; the Bombay government.

2. The reasoning in the objection of the Accountant General, that so long as I continue to draw my pension in this presidency I shall be subject to the rules framed by this Government, is unsound in as much as it is not so much the place where I draw my pension that counts as it is under whose authority or sanction I am given pension and what that sanction is.

3. In view of the above facts I respectfully request you will be good enough to place the matter before the Government and have instructions issued to the Accountant General to recognise the rules framed by the Bombay Government and continue to pay me the increment sanctioned by the government.

I beg to remain,
Sir,
Your most obedient servant,

Harapanahally
26.1.34

Govinda Gurumurthy
pensioner
Harapanahally
Bellary DC

Fin (Pen) Dept.

Endt. No. 3193-Ps 5-2-34

Referred to the Accountant General for favour of remarks on the request contained in the petition.

11894.

S. A. Venkatram
Deputy Secretary.

To

The Accountant General (Pension Audit section)

Copy of letter No. Pension-Mis-12-121 dated 19th December 1933 from the Accountant Gneral Madras to the Treasury Officer Bellary.

Subject.- Item 6 of the objection statement for september 1933 regarding overdrawal of temporary increase by Mr. Govinda Guru Rao holder of P.P.O.No.49929.

With reference to your reply to item No.6 of A.B.K. 347 dated 7th october 1938 on the objection statement for september 1933 I have the honour to state that although the pensioner served under the Bombay Government prior to his retirement his pension is debitable to the paying province Madras so long as he continues to draw his pension in this province and he will be subject to the rules framed by this government regarding the admissibility of Temporary Increase on his pension. The recovery ordered already in the A.B.K. under refefence should therefore be effected at one third of his pension every month together with similar overpayments for subsequent periods.

Copy of D.Dis.No.2538/33 dated 20-12-33 of the Collector of Bellary.

Copy communicated to the S.T.O. Harpanahalli.Further payment of Temporary increase to Mr. Govinda Guru Rao (P.P.O.No.49929) should be stopped. The amount of Temporary increase already paid to him in excess for the period from 1-3-31 to 30-11-33 at Rs4/- per mensum is Rs.132/-. This is to be recovered every month at 1/3 of his pension i,e.,Rs 10/- per mensum with effect from his pension for December 1933.

(True Copy)

Taluk office, Harpanahalli.
Dated 5-1-1934.

(Copy) Communicated to M.R.Ry.Govinda Guru Rao, holder of P.P.O.No 49929.

True Copy
Govind Guru
26.1.34

OFFICE OF THE ACCOUNTANT-GENERAL, MADRAS.
(Pension Audit Section)

Fort St. George, 27th February *1934.*

No. Pen.Mrs.12-142

Enclosures.
Two

7447

para.3 on p.207 (5)

M

1. The pensioner served under the Bombay Govt prior to his retirement in 1915 and his pension is accordingly debitable to the paying Province under Article 190(1) of the Audit Code. As he draws his pension in the Madras Presidency, the admissibility of the temporary increase is governed by the rules framed by the Government of Madras to whom the pension as well as the increase thereon, if admissible, will be debitable. The Government having stopped the payment of temporary increase on superior pensions with effect from the 1st March 1931 in G.O.No.272 Finance (Pension) dated 25-3-1931, the overdrawal of temporary increase by the pensioner from 1-3-1931 to 30-11-1933 amounting to Rs.132 at Rs.4 per mensem is recoverable from him.

2. Further, as the temporary increase is granted to mitigate the hardship caused on account of an increase in the cost of living, it will not be inequitable to disallow it in the present case, as the need for the increase has not been accepted by the Madras Government in the case of pensioners residing in this Province.

3. A sum of Rs.76 represents overpayment made more than a year before it was noticed in audit. The recovery of this amount may be waived under Article 156 (3)(a) of the Audit Code, if the Government consider it desirable to do so. The remaining overpayment of Rs.56 falling within one year of the disallowance will be recovered from him at 1/3 of his pension.

N

N Ramaswamy Iyer
Deputy Accountant General.

To

The Secretary to the
Government of Madras,
Finance (Pension) Department,
M a d r a s.

Extract from the Audit Code, Vol. I.

156.

(3)(a) In the case of payments on account of personal claims which are placed under objection more than a year, * * after the date on which they are disbursed, the head of the audit office before demanding recovery should, subject to the provisions of sub-clause (b) below, refer the matter for the orders of the Govt. concerned. If the order given is that recovery should be waived, it is open to him to challenge the order in audit.

(b) The Governments mentioned in clause (2) of this Article have, however, agreed that in respect of cases of the type referred to in (a) preceding the head of an audit office may forego recovery on their behalf if the amount involved does not exceed Rs 50 and he is satisfied that it was drawn by the Govt. servant concerned under a reasonable belief that he was entitled to it.

190.

(1) Pensions sanctioned before 1st April 192

These will be debited to the Central Govt. if paid outside India and to the Govt. by which the payment is made if the payment is made in India.

6.

Finance (Pen) dept.

Pension - Temporary increase - Request for continuance of.

Petition from M.R.Ry., Govinda Guru Rao, d/26-1-34
Endt. to the Acct. General No. 3193-1, dated 5-2-1934
From the Acct. General, No. Pen.Mis. 12-142, d/27-2-34.

The petitioner served under the Bombay Govt. prior to his retirement in 1915 and was granted a pension of Rs 29-5-0 per mensem. Under the rules approved by the Secretary of State for the adjustment of pension charges, the pensions sanctioned before 1-4-1921 and paid in India are debitable to the Govt. by which the payment is made irrespective of the Govt. which sanctioned the pension. As the pension of the petitioner is paid in Bellary district, the charge is debitable to the Madras Government.

2. Under the Govt. of India's Resolution recorded in G.O. No. 22 Finance (Pen) dated 4-3-1921, a temporary increase of Rs 4 per mensem was granted by this Government. This Govt. issued orders in G.O. 272, Finance (Pension) dated 25-3-1931 discontinuing the grant of temporary increases to pensioners in receipt of superior pensions, with effect from 1st March 1931. As the pension of the petitioner is entirely debitable to this Govt. (so long as the pensioner draws pension in this Province), the Acct. General has applied the orders issued by this Govt. in regard to the admissibility of temporary increase and has ordered the recovery of the temporary increase of Rs 4 per mensem already drawn by the petitioner from 1-3-1931 to 30-11-1933. The petitioner has now questioned the correctness of the A.G.'s order referred to above and prays for the continuance of the temporary increase of Rs 4 per mensem.

3. The Accountant-General's remarks were invited c the petition in Endt. dated 5-2-34 and his reply is

page 4 C.F. The petitioner's contention is that, irrespective of whether his pension is paid by this Govt. or the Bombay Govt., the amount of his pension should be regulated by the rules of the Bombay Govt. and not by those issued by the Madras Govt. for their pensioners. The petitioner's contention is untenable for the following reasons:--

(i) By the rules approved by the Secretary of State the petitioner became a Madras Govt. pensioner and the temporary increase of pension was first granted by the Madras Government. It was not granted on account of any service under the Bombay Govt. but for the reason that the pension was paid in this Province.

(ii) As pointed out by the Acct. General, the temporary increase was granted originally to afford relief to pensioners on account of the increase in the cost of living. In view of the fact that this Govt. have discontinued the increase on account of the fall in the cost of living in the case of their servants, it seems only proper to disallow the temporary increase to the petitioner also.

(iii) Central Govt. pensioners whose pensions are chargeable wholly or partly to Central Revenues and who are residing in the areas under the jurisdiction of the Provinces, are governed by the orders passed by the Provl. Govts. in respect of their pensions. Central Govt. pensioners residing in this Province do not get temporary increase following the orders of this Govt.

The petitioner's contention can have force only in regard to the pension proper and not to the temporary increase which is given on consideration of the cost of living. It is therefore liable to be modified or cancelled with reference to the cost of living in the area in which the pensioner resides. If ~~the pensioner~~ tomorrow the pensioner goes to Bombay, the pension charge will become debitable to the Bombay Government and he will be governed by the orders of that Government regarding temporary increase. Similarly, again, if the pensioner goes to United Provinces or Calcutta, the pensions will become debitable to them and the orders in those

Provinces will apply. Submitted that the petitioner's request for the continuance of the temporary increase of Rs 4 per mensem may be negatived.

4. In para 3 of his reply on page 4 C.F. the Accountant-General asks whether the Govt. consider it necessary to waive recovery of a sum of Rs 76 out of the total overpayment of Rs 132. The sum of Rs 76 represents overpayment made more than a year before it was noticed in audit. Under Article 156 (3) (b) of the Audit Code, the Accountant-General is given the discretion to forego recovery on behalf of this Government of payments made 1 year before the date of their detection in audit, if the amount involved does not exceed Rs 50 and if he is satisfied that it was drawn by the Govt. servant concerned under a reasonable belief that he was entitled to it. Following the above principle, it is for orders whether the sum of Rs 76 in question may be waived on the ground that the petitioner drew it in the belief that he was entitled to it. In the case disposed of in G.O. 159 Finance(Pen dated 19-4-1932, the Govt. waived recovery of certain overpayments made to pensioners for the reasons stated in Mr. Jones's note on page 28 of G.O. ibid.

M on p. 4 c.f.

May be waived, I think. 10/4/34

5. For orders.

I agree with the A.G.'s views of para. 3 above. The pet.r being one whose pension was sanctioned before 1/4/1921, his pension is entirely debitable to the province where he has his domicile for the time being, & he is bound by the pension rules of that province. If he wants the temp.y increase, he may go & reside in Bombay, where he says it is still in existence.

9/4/34

C4. 10/4

10/4

pl. see D.O. pending for personal discussion with D.S.

cir 10/4
Rec'd 14/4/34.

9

Please see the orders of Govt. on
p 3 above.

A draft order is submitted.
Reasons have been mentioned in the draft
waiving recovery, to enable the A.G.
to enter them in the register referred to
in clause (3)(a) of Art. 156 of the
Audit Code.

as in case of
Obj No. 163.

1147

18.4.34.
20.4.34.

10

Sectt. II-5(6)

FINANCE (PENSION) DEPARTMENT.

	Date.	Initials.
When received for Fair-copying.		
When copied ..	24/4	
When examined ..		
When signed ..		
When despatched ..	27/4/34	

Pension -

Temporary increase - continuance - Petition from M.R.Ry. Govinda Guru Rao - Orders passed.

READ AGAIN G.O. No. ....., dated 19

" " " " ..... " 19

READ ALSO :—

C No. ..... From the M.R.Ry. Govinda Guru Rao, ... No. ....., dated 26--1-- 1934 p. 1 c.f.

" " ..... From the A.G.(P.A.Section), Pen.Mis 12-142, ... " 27--2-- 1934.

" " ..... " " ..... " ..... " 19

ORDER.

No. 230, dated 23—4— 1934

Ms.

Cf. the contention in para. 2 on p. 1 c.f.

× para. 3 on p. 8 of G.O. 772 Fin. (Pen.) 25-3-31 (S).

Q para 3, p. 1 c.f.

Vide orders on p. 3 n.f.

The petitioner is informed that so long as he draws his pension in the Madras Presidency, the grant to him of a temporary increase in pension will be governed by this Govt's orders. As the Govt. have discontinued× the grant of temporary increases in respect of superior pensions with effect from 1st March 1931, the petitioner's request for the continuance of temporary increase cannot be complied with.

2. The Govt. are pleased to waive, under Art.156(3)(a) of the Audit Code, the recovery of a sum of rupees (76/-) seventy-six only representing overpayment of temporary increase made to the petitioner more than a year before it

11

was noticed in audit, as they are satisfied that the amount was drawn by him under a reasonable belief tnat he was entitled to it. The balance of overpayment amounting to Rs 56/- should be recovered from him in monthly instal-ments at the rate of one-third of his pension.

20-4-34.

To

M.R.Ry.Govinda Garu Rao,
holder of P.P.O.No.49929,
Harpanahally, Bellary Dt.

The A.G. (P.A.Section).

19/7/4.

TO

THE SECRETARY TO THE GOVERNMENT OF MADRAS,

Financial Department,

Fort St.George, M A D R A S.

16563

(Y) With reference to G.O.No.Ms.230 dated 23rd April 1934, I beg to submit that the G.O. is silent on the contraversial points raised by me against the audit objection referred to in my petition of 26th January 1934.

2. All that is actually needed is a clear order, on the point whether this Government will be pleased to recognise the sanction of the competent authority(Bombay Govt.) who sanctioned me the Pension and such other sanctions -- which that authority might make from time to time and act up to that.

3. It is plain enough that a place where a pensioner happens to reside or draws his pension cannot transform him into a pensioner of the Government of that place or subject him to the rules of that Government in supersession of the previous rules and sanction emanated from a competent authority.

4. It is equally plain that if a pensioner of this Government, whose increment of pension is stopped by this Government happens to get his pension payment-office transferred to any place under the Bombay Government that place cannot entitle him to draw the increment, simply because the Government of that place have allowed increment to -- their pensioners.

5. Besides the sanction of increment of pension by the Local Governments or their withdrawls of such sanction apply only to a particular class of pensioners of each -- Government and not to particular places, so that the pensioners, who by chance happen to reside or draw their pensions in such an area might get the benefit or otherwise of it.

6. It is an unassailable fact that if this Government

makes the payment to me of my pension, they do so only to give effect to the sanction of the Bombay Government, and not independent of it.

7. The Audit objection which has come now late in the day, seems to have arisen out of an initial error committed by the Account Department in making my pension debitable to this Government instead of making it contributable by the Bombay Government, to which alone my pension is rightly debitable.

8. This error, if so required, might even now be rectified by fair means of moving the Bombay Government to contribute to this Government towards the payment ofthe whole of my pension or only its increment as might be deemed fit, instead of prejudicing my claim on the increment sanctioned by the Bombay Government by such reasons as are found in the Audit objection that a place of payment of pension -- governs the amount to be paid to a pensioner and not the sanction of competent authority.

9. As regards the 2nd Para of the G.O.Ms.No.230 of 1934 which waives the recovery of Rs.76/-, it appears that the Government is not aware of full details of how the -- supposed ~~overdraft or~~ over payment of my pension was made.

10. The payment of temporary increment to me was once stopped by the Account Department from 1-3-31 to31-7-31., subsequently and even without a motion from me, the Department corrected itself and paid me back the ~~this~~ them withheld amount of Rs.20/- by a supplementary bill on 3-9-31, on the ground that I was a pensioner of the Bombay Government, was entitled to draw the increment as that Government did not withdraw their sanction of increment once given to their pensioners.

11. On a perusal of the correspondence between the Try. Deputy Collector of Bellary and the Accountant General,Madras it will appear that both these Officers have ordered the Subtreasury Officer, Harapanahalli to continue to pay me the temporary increase sanctioned by the Bombay Government, as that Government have not withdrawn their sanction (Vide Acct.

N.C.5 (Vide Accountant General's letter No.P.M.Mis 4-546 dated 13th October 1932 communicated with the Bellary Treasury Deputy Collector's Dis No. 1339 dated 19-10-32.)

12. The matter having stood thus, for nearly 3 years, now comes the Audit objection which is under contest.

13. It will thus appear that the Officers of the Account-Department have been all along ~~wairing~~ wavering between what they suppose to be right or wrong and adduce reasons which suit its time to time acquiescence or objection as the case may be.

14. Apart from the point ~~whether~~ whether the present Audit objection is correct or incorrect and even assuming that it is correct, it will only be more correct to say that without any effort or hand of mine over payment (if it is so) was made to me by the Account Department itself under a reasonable belief that I am entitled to it than to say that I myself overdrew my pension.

15. Thus it will, beyond all doubt, appear that no error lies on my part in the matter of the supposed overpayment and that the principle adopted in waiving the recovery of Rs.76/- may rightly be extended to the recovery of the remaining amount of Rs.56/- also, as the whole payment was made to me under the reasonable belief that I am entitled to it.

16. As the present audit objection has hit me hard in these hard days, I pray that the matter may be kindly treated as urgent and the Accountant General be advised to give effect to the sanction of the Bombay Government and pay me back the amount hitherto withheld as overpayment.

Harapanahalli
17.5.34

I beg to remain,
Sir,
Your most obedient servant,
Govind Gurubas Nagal
pensioner
Harapanahalli
Bellary Dt

16563

15

Fin(Pen) Dept.

Memo: No. 16563-1 Q1-6-34

Pension — Temporary increase — Continuance — Petition from MRRy. Govinda Guru Rao dy 17-5-34.

The petitioner is informed that the Govt. are unable to reconsider the orders passed in G.O. No. 230 Fin(Pen) dated 23-4-1934. Further petitions on the same subject will not receive attention.

To

MRRy. Govinda Guru Rao,
holder of P.P.O. No. 49928
Harpanahally,
Bellary Dt.

Dpd. by Van / Peon / Messenger
Dpr.'s initials

Note. Submitted that the petitioner's case was fully examined when he submitted a previous petition to Govt — please see notes on pp. 6-8 of G.O. 230 Pen. dy 23-4-34. The petitioner's arguments in the present petition are not tenable. The draft memo. above is for approval

28-5-34